

TERMINATED

**U.S. District Court
District of Oregon (Eugene (6))
CIVIL DOCKET FOR CASE #: 6:16-cv-01875-TC**

Smith v. U.S. Department of Transportation et al
Assigned to: Magistrate Judge Thomas M. Coffin
Cause: 05:552 Freedom of Information Act

Date Filed: 09/23/2016
Date Terminated: 12/04/2018
Jury Demand: None
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff**Steven Smith**

represented by **Steven Smith**
1224 N.E. Walnut St.
#273
Roseburg, OR 97470
541-680-0209
PRO SE

V.

Defendant**U.S. Department of Transportation**

represented by **Kevin C. Danielson**
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ATTORNEY TO BE NOTICED

Defendant**U.S. Department of Justice**

represented by **Kevin C. Danielson**
(See above for address)
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
09/23/2016	<u>1</u>	Complaint. Filing fee in the amount of \$400 collected. Receipt No. 10906. Jury Trial Requested: No. Filed by Steven Smith against All Defendants (Attachments: # <u>1</u> Exhibit, # <u>2</u> Civil Cover Sheet). (jk) (Entered: 09/23/2016)
09/23/2016	<u>2</u>	Notice of Case Assignment to Magistrate Judge Thomas M. Coffin and Discovery and Pretrial Scheduling Order. NOTICE: Counsel shall print and serve the summonses and all documents issued by the Clerk at the time of filing upon all named parties in accordance with Local Rule 3-5. Discovery is to be completed by 1/23/2017. Joint Alternate Dispute Resolution Report is due by 2/21/2017. Pretrial Order is due by 2/21/2017. Ordered by Magistrate Judge Thomas M. Coffin. (jk) (Entered: 09/23/2016)
09/23/2016	3	Clerk's Notice of Mailing to Smith of Discovery order, <u>2</u> . (jk) (Entered: 09/23/2016)
10/06/2016	<u>4</u>	Summons Issued Electronically as to U.S. Department of Justice, U.S. Department of Transportation. NOTICE: Counsel shall print and serve the summonses and all documents issued by the Clerk at the time of filing upon all named parties in accordance with Local Rule 3-5. (ljb) (Entered: 10/07/2016)
11/16/2016	<u>5</u>	Answer to <u>1</u> Complaint . Filed by U.S. Department of Justice, U.S. Department of Transportation. (Danielson, Kevin) (Entered: 11/16/2016)

12/06/2016	<u>6</u>	Amended Complaint. Filed by Steven Smith against U.S. Department of Justice, U.S. Department of Transportation. (ljb) (Entered: 12/06/2016)
12/19/2016	<u>7</u>	Answer to <u>6</u> Amended Complaint . Filed by U.S. Department of Justice, U.S. Department of Transportation. (Danielson, Kevin) (Entered: 12/19/2016)
01/25/2017	<u>9</u>	Motion for Partial Summary Judgment and Memorandum and plaintiff's Declaration in Support. Filed by Steven Smith. (ljb) (Entered: 01/31/2017)
01/30/2017	<u>8</u>	Motion <i>to Set Pretrial Deadlines</i> . Filed by U.S. Department of Justice, U.S. Department of Transportation. (Danielson, Kevin) (Entered: 01/30/2017)
02/14/2017	<u>10</u>	Response in Opposition to Motion <i>to Set Pretrial Deadlines</i> <u>8</u> . Filed by Steven Smith. (ljb) (Entered: 02/14/2017)
02/15/2017	<u>11</u>	Response to Motion for Partial Summary Judgment <u>9</u> . Filed by U.S. Department of Justice. (Danielson, Kevin) (Entered: 02/15/2017)
02/15/2017	<u>12</u>	Declaration of Michelle Volker <i>in Support of Defendant's Response to Plaintiff's Motion for Partial Summary Judgment</i> . Filed by U.S. Department of Justice. (Related document(s): Response to Motion <u>11</u> .) (Danielson, Kevin) (Entered: 02/15/2017)
02/15/2017	<u>13</u>	Motion for Extension of Time to File a Response/Reply to Motion for Partial Summary Judgment <u>9</u> . Filed by U.S. Department of Transportation. (Danielson, Kevin) (Entered: 02/15/2017)
02/16/2017	<u>14</u>	Cross Motion for Summary Judgment . Filed by U.S. Department of Justice. (Danielson, Kevin) (Entered: 02/16/2017)
02/22/2017	<u>15</u>	Plaintiff's Notice and Motion for Voluntary to Dismissal of Defendant U.S. Department of Justice. Filed by Steven Smith. (ljb) (Entered: 02/22/2017)
03/08/2017	<u>16</u>	Response to Motion for Partial Summary Judgment <u>9</u> . Filed by U.S. Department of Transportation. (Danielson, Kevin) (Entered: 03/08/2017)
03/08/2017	<u>17</u>	Declaration of Derek Honda <i>in Support of Defendant's Response to Plaintiff's Motion for Partial Summary Judgment</i> . Filed by U.S. Department of Transportation. (Related document(s): Response to Motion <u>16</u> .) (Danielson, Kevin) (Entered: 03/08/2017)
03/09/2017	<u>18</u>	Cross Motion for Summary Judgment . Filed by U.S. Department of Transportation. (Danielson, Kevin) (Entered: 03/09/2017)
03/21/2017	<u>19</u>	Motion for Discovery and Supporting Declaration of Plaintiff. Filed by Steven Smith. (ljb) (Entered: 03/28/2017)
03/21/2017	<u>20</u>	Response in Opposition to Cross Motion for Summary Judgment <u>18</u> , Cross Motion for Summary Judgment <u>14</u> and Motion for Leave to File Supplemental Response. Filed by Steven Smith. (ljb) (Entered: 03/28/2017)
04/04/2017	<u>21</u>	Response to Motion for Discovery and/or Inspection <u>19</u> . Filed by U.S. Department of Transportation. (Danielson, Kevin) (Entered: 04/04/2017)
04/04/2017	<u>22</u>	Response <i>to Plaintiff's Motion for Leave to File Supplemental Response</i> . Filed by U.S. Department of Transportation. (Related document(s): Response in Opposition to Motion <u>20</u> .) (Danielson, Kevin) (Entered: 04/04/2017)
06/06/2017	23	ORDER: Pro se plaintiff's motion <u>19</u> for discovery in the form of an evidentiary hearing or limited interrogatories is denied. As noted by defendant in it's response <u>21</u> , discovery is rarely allowed in FOIA cases and it is not appropriate in the present action. Pro se plaintiff has also filed a motion <u>20</u> entitled provisional response to defendants' motion for summary judgment and motion to file a supplemental response. Such motion is denied and such provisional response is stricken based on the following which includes a briefing schedule. Defendant DOT's motion <u>13</u> for extension of time to respond is allowed. Defendants' motion <u>8</u> to set pretrial deadlines is allowed to the extent that follows: Pro se plaintiff shall have until 6/27/2017 to make a single filing that will be his Reply for his motion for summary judgment <u>9</u> and his Opposition to Defendant DOT's Cross Motion for Summary Judgment <u>18</u> . Defendant DOT shall have 14 days thereafter to file a Reply to their Cross Motion for Summary Judgment <u>18</u> . Plaintiff's Motion for Partial Summary Judgment <u>9</u> and Defendant DOT's Cross Motion for Summary Judgment <u>18</u> and Defendant DOJ's Cross Motion for Summary

		Judgment <u>14</u> will be taken under advisement on 7/17/2017. Ordered by Magistrate Judge Thomas M. Coffin. (cp) (Entered: 06/06/2017)
06/06/2017	24	Clerk's Notice of Mailing to Steven Smith regarding Order 23 . (cp) (Entered: 06/06/2017)
06/12/2017	<u>25</u>	Objection to Order 23 and Motion to Modify Briefing Schedule. Expedited Hearing requested. Filed by Steven Smith. (kf) (Entered: 06/12/2017)
06/27/2017	<u>26</u>	Response to Plaintiff's Objection to Order Pursuant to Rule 72(a) and Motion to Modify Briefing Schedule. Filed by U.S. Department of Transportation. (Related document(s): Motion to Amend/Correct <u>25</u> .) (Danielson, Kevin) (Entered: 06/27/2017)
07/27/2017	27	ORDER: Plaintiff objects under Rule 72(a) to Magistrate Judge Coffin's nondispositive order 23 . Plaintiff's objections are denied as the order is neither clearly erroneous nor contrary to law. As the timeline set out in order 23 has passed, the motion to modify briefing schedule <u>25</u> is granted in part. Pro se plaintiff shall have until 8/18/2017 to make a single filing that will be his reply for his motion for summary judgment <u>2</u> and his Opposition to Defendant DOT's Cross Motion for Summary Judgment <u>18</u> . Defendant DOT shall have 14 days thereafter to file a Reply to their Cross Motion for Summary Judgment <u>18</u> . Ordered by Judge Michael J. McShane. (Copy mailed to plaintiff) (cp) (Entered: 07/27/2017)
08/21/2017	<u>28</u>	Combined Brief Re Cross-Motions for Summary Judgment and Plaintiff's Renewed Motions. Filed by Steven Smith. (Attachments: # <u>1</u> Exhibit 1) (jk) (Entered: 08/22/2017)
09/01/2017	<u>29</u>	Reply in Support of its Cross Motion for Summary Judgment <u>18</u> . Filed by U.S. Department of Justice, U.S. Department of Transportation. (Danielson, Kevin) Modified on 9/5/2017, incorrect event selected, changed from response to reply to motion. (kf). (Entered: 09/01/2017)
09/01/2017	<u>30</u>	Supplemental Declaration of <i>Derek Honda</i> . Filed by U.S. Department of Justice, U.S. Department of Transportation. (Related document(s): Declaration <u>17</u> .) (Danielson, Kevin) (Entered: 09/01/2017)
09/11/2017	<u>31</u>	Motion for Leave to File Plaintiff's Response to Defendant's First Supplemental Declaration of Derek Honda <u>30</u> . Filed by Steven Smith. (kf) (Entered: 09/11/2017)
09/25/2017	<u>32</u>	Order and Findings & Recommendation: Order granting Motion for Voluntary Dismissal <u>15</u> and denying as moot Motion for Summary Judgment <u>14</u> . Order granting Motion for Leave to File a Response and Plaintiff's Response to Defendant's First Supplemental Declaration of Derek Honda <u>31</u> . Findings & Recommendation: Cross Motion for Summary Judgment <u>18</u> should be denied and Motion for Partial Summary Judgment <u>2</u> should be granted in part and denied in part. Objections to the Findings and Recommendation are due by 10/10/2017. Signed on 9/25/2017 by Magistrate Judge Thomas M. Coffin. (plb) (Entered: 09/26/2017)
09/25/2017	33	Order referring Findings & Recommendation <u>32</u> , Cross Motion for Summary Judgment <u>18</u> , Motion for Partial Summary Judgment <u>2</u> to Judge Michael J. McShane. Ordered by Magistrate Judge Thomas M. Coffin. (plb) (Entered: 09/26/2017)
10/10/2017	<u>34</u>	Objection to Orders & Motion for Extension of Time to File Objections. Expedited Hearing requested. Filed by Steven Smith. (kf) (Entered: 10/12/2017)
10/13/2017	35	ORDER: Granting Plaintiff's Objection and Motion for Extension of Time <u>34</u> . Objections to the Findings and Recommendation are due by 10/23/2017. Responses to any objections to the Findings and Recommendation are due by 11/6/2017. Ordered by Judge Michael J. McShane. (cp) (Entered: 10/13/2017)
10/13/2017	36	Clerk's Notice of Mailing to Steven Smith and regarding Order on motion for extension of time, 35 . (cp) (Entered: 10/13/2017)
10/13/2017	37	Clerk's Notice of Mailing to Steven Smith regarding Findings & Recommendation <u>32</u> , Findings & Recommendation Referred 33 . (plb) (Entered: 10/13/2017)

10/23/2017	<u>38</u>	Objections to Findings & Recommendation <u>32</u> . Filed by Steven Smith. (kf) (Entered: 10/24/2017)
11/06/2017	<u>39</u>	Response to Objections to Findings & Recommendation. Related document(s): <u>38</u> Objections to Findings & Recommendation. Filed by All Defendants. (Danielson, Kevin) (Entered: 11/06/2017)
12/11/2017	<u>40</u>	ORDER: Magistrate Judge Coffins Findings and Recommendation <u>32</u> is adopted in full. Plaintiffs motion for voluntary dismissal <u>15</u> of defendant DOJ is allowed. DOJ's motion for summary judgment <u>14</u> is denied as moot. Plaintiffs motion for partial summary judgment <u>9</u> is allowed as stated in the Findings and Recommendation. DOT's cross-motion for summary judgment <u>18</u> is denied without prejudice. Signed on 12/11/2017 by Judge Michael J. McShane. (cp) (Entered: 12/12/2017)
12/21/2017	<u>41</u>	Motion for Reconsideration of Order on Findings & Recommendation, Order on motion for partial summary judgment, Order on motion for summary judgment <u>40</u> and for Notice of Orders. Filed by Steven Smith. (kf) (Entered: 12/21/2017)
12/21/2017	<u>42</u>	Clerk's Notice of Mailing to Steven Smith regarding Order on Findings & Recommendation, Order <u>40</u> . (cp) (Entered: 12/21/2017)
12/28/2017	<u>43</u>	ORDER: Denying Motion for Reconsideration <u>41</u> of Order on Findings & Recommendation <u>40</u> . Ordered by Judge Michael J. McShane. (cp) (Entered: 12/28/2017)
12/28/2017	<u>44</u>	Clerk's Notice of Mailing to Steven Smit regarding Order on motion for reconsideration <u>43</u> . (cp) (Entered: 12/28/2017)
12/29/2017	<u>45</u>	Motion for Extension of Time <i>to Move for Summary Judgment</i> . Filed by U.S. Department of Transportation. (Danielson, Kevin) (Entered: 12/29/2017)
01/02/2018	<u>46</u>	ORDER: Granting Motion for Extension of Time <u>45</u> . Dispositive Motions are due by 1/16/2018. Ordered by Magistrate Judge Thomas M. Coffin. (plb) (Entered: 01/02/2018)
01/02/2018	<u>47</u>	Clerk's Notice of Mailing to Steven Smith regarding Order on motion for extension of time <u>46</u> . (plb) (Entered: 01/02/2018)
01/16/2018	<u>48</u>	Motion for Summary Judgment . Filed by U.S. Department of Justice, U.S. Department of Transportation. (Danielson, Kevin) (Entered: 01/16/2018)
01/16/2018	<u>49</u>	Declaration of Angelique Berry . Filed by U.S. Department of Justice, U.S. Department of Transportation. (Related document(s): Motion for Summary Judgment <u>48</u> .) (Danielson, Kevin) (Entered: 01/16/2018)
01/16/2018	<u>50</u>	Declaration of Derek Honda (<i>Second Supplemental</i>). Filed by All Defendants. (Related document(s): Motion for Summary Judgment <u>48</u> .) (Danielson, Kevin) (Entered: 01/16/2018)
01/16/2018	<u>51</u>	Declaration of Susan H. McLean . Filed by All Defendants. (Related document(s): Motion for Summary Judgment <u>48</u> .) (Danielson, Kevin) (Entered: 01/16/2018)
01/16/2018	<u>52</u>	Declaration of Benjamin W. Sanders . Filed by All Defendants. (Related document(s): Motion for Summary Judgment <u>48</u> .) (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2) (Danielson, Kevin) (Entered: 01/16/2018)
01/16/2018	<u>53</u>	Declaration of Margit Skidmore . Filed by All Defendants. (Related document(s): Motion for Summary Judgment <u>48</u> .) (Attachments: # <u>1</u> Exhibit 1) (Danielson, Kevin) (Entered: 01/16/2018)
02/07/2018	<u>54</u>	Response to Second DOT Motion for Summary Judgment <u>48</u> and Plaintiff's Second Renewed Motion for Discovery. Filed by Steven Smith. (Attachments: # <u>1</u> Exhibit) (jk) (Entered: 02/08/2018)
02/20/2018	<u>55</u>	Response to Motion for Discovery and/or Inspection <u>54</u> . Filed by U.S. Department of Transportation. (Danielson, Kevin) (Entered: 02/20/2018)
02/20/2018	<u>56</u>	Reply to Motion for Summary Judgment <u>48</u> . Filed by U.S. Department of Transportation. (Danielson, Kevin) (Entered: 02/20/2018)

06/06/2018	<u>57</u>	ORDER: Defendant is ordered to make a filing within 20 days that specifically addresses: 1) the entirety of the content of McClean Declaration <u>51</u> (and its exhibits), especially the determination on February 10 regarding NTS, and indicate in detail the relevance or lack thereof of such information to the motion for summary judgment <u>48</u> ; 2)the same for the Skidmore Declaration <u>53</u> ; 3)the date of the Derek Honda's initial search (See Paragraph 7 and 8 of # <u>50</u>); and 4) the application of all of the foregoing to the cases cited in this court's previous Order and F&R <u>32</u> . Plaintiff shall have 20 days thereafter to file an optional response. Ordered by Magistrate Judge Thomas M. Coffin. (plb) (Entered: 06/06/2018)
06/06/2018	<u>58</u>	Clerk's Notice of Mailing to Steven Smith regarding Order <u>57</u> . (plb) (Entered: 06/06/2018)
06/26/2018	<u>59</u>	Supplement <i>Brief</i> . Filed by U.S. Department of Transportation. (Related document(s): Motion for Summary Judgment <u>48</u> .) (Danielson, Kevin) (Entered: 06/26/2018)
07/23/2018	<u>60</u>	Plaintiff's Response to DOT Supplemental Brief and Additional Points & Authorities. Filed by Steven Smith. (Related document(s): Supplement <u>59</u> .) (bd) (Entered: 07/23/2018)
09/11/2018	<u>61</u>	Order and Findings & Recommendation: Plaintiff's motion (contained in <u>54</u>) for discovery/inspection is denied. Defendant DOT's motion <u>48</u> for summary judgment should be allowed and this action should be dismissed. Objections to the Findings and Recommendation are due by 9/25/2018. Signed on 9/11/2018 by Magistrate Judge Thomas M. Coffin. (jk) (Entered: 09/11/2018)
09/11/2018	<u>62</u>	ORDER by Magistrate Judge Thomas M. Coffin: Order and Findings & Recommendation <u>61</u> is referred to Judge Michael J. McShane. (jk) (Entered: 09/11/2018)
10/01/2018	<u>63</u>	Objection to Orders pursuant to Rule 71(a) & (b), and Motion for Extension of Time to File an Objection to Order and Findings and Recommendation <u>61</u> , and, Alternate Motion for Reconsideration of Judge McShane's ruling on Findings & Recommendation <u>61</u> . Expedited Hearing Requested. Filed by Steven Smith. (kf) (Entered: 10/01/2018)
10/01/2018	<u>64</u>	Clerk's Notice of Mailing Findings & Recommendation <u>61</u> , Findings & Recommendation Referred <u>62</u> to Smith. (kf) (Entered: 10/01/2018)
10/02/2018	<u>65</u>	ORDER: Granting Plaintiff's Motion for Extension of Time to File Objection to F & R <u>63</u> . Plaintiff's Objections to the Findings and Recommendation are due by 10/19/2018. The Clerk mailed copies of the September 11, 2018 Findings and Recommendations. Ordered by Judge Michael J. McShane. (cp) (Entered: 10/02/2018)
10/02/2018	<u>66</u>	Clerk's Notice of Mailing to Steven Smith regarding Order on Motion for Extension of Time to File an Objection to F & R, <u>65</u> . (cp) (Entered: 10/02/2018)
10/05/2018	<u>67</u>	Objections to Findings & Recommendation regarding Motion for Summary Judgment <u>48</u> <u>61</u> . Filed by Steven Smith. (kf) (Entered: 10/05/2018)
10/19/2018	<u>68</u>	Response to Objections to Findings & Recommendation. Related document(s): <u>61</u> Findings & Recommendation, <u>67</u> Objections to Findings & Recommendation. Filed by U.S. Department of Transportation. (Danielson, Kevin) (Entered: 10/19/2018)
12/04/2018	<u>69</u>	ORDER: Magistrate Judge Coffins Findings and Recommendation <u>61</u> is adopted in full. Plaintiffs motion for additional discovery <u>54</u> is denied. DOTs motion for summary judgment <u>48</u> is granted. Signed on 12/4/2018 by Judge Michael J. McShane. (Copy mailed to plaintiff) (cp) (Entered: 12/04/2018)
12/04/2018	<u>70</u>	Judgment: Based on the record, judgment for defendants. Signed on 12/4/2018 by Judge Michael J. McShane. (cp) (Entered: 12/04/2018)